

Message Text

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TAGS: BEXP, OECD, GATT, EEC, FR

SUBJ: FRENCH PUBLIC PROCUREMENT POLICIES

1. INTRODUCTION. THE VISIT TO PARIS JULY 11-25 OF A GAO TEAM TO STUDY FRENCH GOVT PROCUREMENT POLICIES PROVIDED A USEFUL OPPORTUNITY FOR EMB ESCORT PERSONNEL TO HEAR WHAT OFFICIALS IN TWO FRENCH MINISTRIES, THE ELECTRIC POWER UTILITY, AND TWO AMERICAN VENDORS HAD TO SAY ON THE SUBJECT. THERE WAS LITTLE NEW OR UNEXPECTED IN WHAT THEY WERE TOLD, BUT THERE WERE A FEW INTERESTING ANGLES WHICH MAY SERVE AS HELPFUL BACKGROUND TO US TECHNICIANS IN ANALYZING THE WEALTH OF MATERIAL SUBMITTED OFFICIALLY BY THE GOF TO THE EC, OECD AND GATT.

2. THE MAIN GENERAL IMPRESSION WE GOT FROM THESE INTERVIEWS WAS THAT WHILE THERE IS A GOF MANUAL ON PROCUREMENT PROCEDURES, CALLED THE "CODE DES MARCHES
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PUBLICS", THERE IS QUITE A BIT OF ROOM FOR FLEXIBILITY

AND DISCRETION IN THE SYSTEM, BOTH IN THE MINISTRIES AND THE PUBLIC CORPORATIONS. THE "BUY FRENCH" ASPECTS, WHICH ARE OF PRIMARY INTEREST TO US, APPEAR TO BE ENFORCED MORE BY TACIT UNDERSTANDING AND THE NATIVE INSTINCTS OF FRENCH ADMINISTRATORS THAN BY WRITTEN DIRECTIVES. THE PREDICTABLE UPSHOT IS THAT GOF AGENCIES SEEM TO BUY ALL THEY REASONABLY CAN FROM FRENCH-OWNED, FRENCH-BASED SOURCES, WITH SECOND PREFERENCE TO FOREIGN-OWNED, FRENCH-BASED SOURCES, AND ONLY THE RESIDUAL (WHICH VARIES WIDELY BY AGENCY AND PRODUCT) FROM FOREIGN SOURCES, INCLUDING OTHER EC COUNTRIES. ASIDE FROM THE FACT THAT GOVERNMENT TENDERS ARE BETTER ADVERTISED WITHIN THE COMMON MARKET THAN ELSEWHERE, WE DETECTED NO STRONG PROCLIVITY TO FAVOR EC OVER THIRD COUNTRY SUPPLIERS. IF THERE IS A SPECIFIC ANTI-AMERICAN BIAS (AND THERE MAY WELL BE AMONG SOME PROCUREMENT OFFICERS ON A PERSONAL BASIS) IT DID NOT EMERGE IN THE INTERVIEWS.

3. THERE WAS ALSO ABUNDANT EVIDENCE OF A MOVE AWAY FROM OPEN PUBLIC TENDERS TOWARD BIDDING BY SELECTIVE INVITATION, PRESUMABLY BECAUSE THE LATTER YIELDS BETTER RESULTS, AND A GROWING EMPHASIS ON QUALITY AND SERVICE OVER MERE PRICE CONSIDERATIONS. THERE ARE INDICATIONS THAT POLITICAL PRESSURES ARE STRONG ON FRENCH PROCUREMENT PERSONNEL, AT BOTH THE NATIONAL AND LOCAL LEVELS, FROM PARLIAMENTARIANS, MAYORS, ETC., AND THAT THIS PRESSURE HAS SOME EFFECT.

4. ON THE WHOLE, HOWEVER, OUR IMPRESSION IS THAT THE FRENCH PROCUREMENT SYSTEM IS HONEST, PROFESSIONAL, FLEXIBLE, AND EFFECTIVE - BUT UNDENIABLY CHAUVINISTIC, AND GETTING MORE SO AS THE DIVERSITY AND TECHNICAL CAPABILITIES OF FRENCH INDUSTRY EXPAND.

5. THE INTERVIEWS WITH EACH SOURCE ARE SUMMARIZED BELOW:

6. MINISTRY OF HEALTH - OFFICE OF HOSPITALS PROCUREMENT. THE MINISTRY OF HEALTH FOLLOWS VERY STRICTLY LIMITED OFFICIAL USE

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THE REQUIREMENTS OF THE "CODE DES MARCHES PUBLICS". SOME PROCUREMENT (BUT NO MORE THAN 5 PER CENT) IS CARRIED OUT UNDER OPEN TENDER WHEN THE INVESTMENT REACHES A CERTAIN LEVEL. A TENDER OF THIS TYPE IS ADVERTISED IN THE FRENCH PROFESSIONAL PRESS AS WELL AS IN THE BULLETIN DE LA COMMUNAUTE EUROPEENNE AS REQUIRED BY THE ROME TREATY. 80 PER CENT OF THE PURCHASES ARE DONE UNDER THE SELECTIVE BIDDING PRO-

CEDURE. THE REQUESTS FOR BIDS ARE IN THIS CASE SENT TO A LIMITED NUMBER OF POTENTIAL CONTRACTORS WHO ARE SELECTED BY THE MINISTRY. THIS SELECTION IS BASED ON DIFFERENT CRITERIA WHICH COVER NOT ONLY THE PRODUCT ITSELF BUT ALSO THE COMPANY AND ITS CAPACITY TO UNDERTAKE LONG-TERM COMMITMENTS. THE AWARD OF THE CONTRACT IS NOT NECESSARILY BASED ON PRICE; MANY OTHER FACTORS ENTER INTO CONSIDERATION SUCH AS QUALITY, SERVICE, AESTHETICS, ETC. THE REMAINING

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15 PER CENT OF PURCHASING IS ON SOLE-SOURCE PROCUREMENT BASIS, PRESUMABLY LIMITED TO SPECIAL PRODUCTS OR SERVICES AVAILABLE FROM ONLY ONE SUPPLIER.

7. FOREIGN SUPPLY DOES NOT ENJOY A SUBSTANTIAL SHARE OF THE TOTAL PROCUREMENT. FOR CONSTRUCTION IT IS

NEGLIGIBLE (EXCEPT FOR ELEVATORS). FOR STANDARD EQUIPMENT IT IS ALSO SMALL. ONLY IN THE CASE OF SPECIAL HIGH TECHNOLOGY ITEMS (MONITORING SYSTEMS, SPECIALIZED SURGICAL EQUIPMENT, ETC.) IS THE FOREIGN PENETRATION HIGH. VERY OFTEN, THE MINISTRY OF HEALTH INVITES FOREIGN BIDS ONLY TO PUT PRESSURE ON DOMESTIC FIRMS AND HAVE THEM EITHER REDUCE THEIR PRICES OR SHORTEN THEIR DELIVERY TIMES. THE GENERAL ATTITUDE OF THE PROCUREMENT OFFICE OF THE MINISTRY IS ADMITTEDLY TO PREFER FRENCH MANUFACTURERS IF THEIR PRODUCTS ARE COMPETITIVE IN QUALITY AND IF LIMITED OFFICIAL USE

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PRICES ARE NOT TOO FAR OUT OF LINE.

8. MINISTRY OF EDUCATION - OFFICE OF PROCUREMENT. THE MINISTRY OF EDUCATION IS IN CHARGE OF PROGRAMS AND PROCUREMENT FOR MOST HIGH SCHOOLS AND UNIVERSITIES. THIS ADMINISTRATION SEEMS TO BE LESS NATIONALISTIC. PROCUREMENT IS CARRIED OUT IN THE SAME WAY AS IN THE MINISTRY OF HEALTH. FOR CONSTRUCTION, CONTRACTS ARE AWARDED TO SELECTED GENERAL CONTRACTORS WHO ARE ENTIRELY FREE TO CHOOSE THEIR OWN SOURCES OF SUPPLY. QUALITY, DESIGN AND ARCHITECTURAL MERIT ARE FACTORS WHICH PLAY A STRONG ROLE IN THE FINAL DECISION. PURCHASES OF CURRENT EQUIPMENT SUCH AS FURNITURE ARE MORE OFTEN BASED ON PRICES. IN THE CASE OF TRAINING AIDS, SUCH AS LABORATORY EQUIPMENT COMPLETE FREEDOM IS GIVEN TO THE SCHOOLS AND UNIVERSITIES TO ORDER ANY TYPE OF EQUIPMENT THAT THEY WISH. THE CENTRAL OFFICE OF PROCUREMENT WILL THEN UNDERTAKE THE PURCHASE IF FUNDS ARE AVAILABLE. NO ATTEMPT IS MADE TO INFLUENCE THE INDIVIDUAL PURCHASERS, WHO ARE CONSIDERED AS BEING THE MOST COMPETENT PEOPLE TO SELECT A SOURCE OF SUPPLY. IN PRACTICE, HOWEVER, FOREIGN EQUIPMENT NOT MANUFACTURED UNDER LICENSE IN FRANCE REPRESENTS LESS THAN 10 PER CENT OF TOTAL PROCUREMENT. DIRECT PURCHASES ARE ALMOST NEVER MADE ABROAD.

9. ELECTRICITE DE FRANCE. PROCUREMENT IN ELECTRICITE DE FRANCE (EDF) IS ALSO SUBJECT TO THE CODE DES MARCHES PUBLICS. IT IS CENTRALIZED FOR SOME HEAVY INVESTMENTS, SUCH AS POWER PLANTS AND DISTRIBUTION NETWORKS, BUT FOR SMALL EQUIPMENT PROCUREMENT IS UNDERTAKEN BY REGIONAL EDF CENTERS. THE MOST USUAL PROCEDURE IS SELECTIVE BIDDING. THIS IS JUSTIFIED BY THE HIGH DEGREE OF TECHNOLOGY AND STANDARDIZATION OF THE EQUIPMENT IN USE AT EDF. GENERALLY EDF PROCURES ON THE FRENCH MARKET BUT EDF SOMETIMES PURCHASES ABROAD IN ORDER TO FORCE

FRENCH FIRMS TO REDUCE THEIR PRICES, TO BREAK CARTELS
OR SIMPLY TO PROCURE UNIQUE PRODUCTS OR EQUIPMENT WHICH
IS FAR SUPERIOR TO WHAT IS PRODUCED DOMESTICALLY. EDF
PROCUREMENT IS SO LARGE THAT IT IS
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OFTEN TIMED AND SOURCED IN THE LIGHT OF THE BROADER
FRENCH ECONOMIC POLICY PREVAILING AT THE TIME. BECAUSE
OF THE HIGHLY SPECIALIZED TYPE OF EQUIPMENT PURCHASED
AND BECAUSE EDF IS IN EFFECT A MONOPOLY, SOME FRENCH
FIRMS DO 90 PER CENT OF THEIR TOTAL BUSINESS WITH EDF.

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AS A RESULT OF THIS, EDF IS SOMETIMES FORCED TO IGNORE PRICE CONSIDERATIONS IN ORDER TO KEEP A GIVEN SUPPLIER IN BUSINESS. EDF GENERALLY KEEPS CLOSE RELATIONS WITH ITS SUPPLIERS AND HELPS THEM WITH TECHNICAL AND ENGINEERING ASSISTANCE. EDF ALSO ENGAGES IN OVERSEAS POWER PROJECTS TO HELP ITS FRENCH SUPPLIERS WIDEN THEIR MARKETS AND IMPROVE PRODUCTIVITY. THE EDF MANAGEMENT TEAM IS APPOINTED BY THE GOVERNMENT AND IS OBVIOUSLY SUBJECT TO GOVERNMENTAL PRESSURES, EVEN AT THE REGIONAL LEVEL WHERE LOCAL POLITICIANS OFTEN SEEK TO PROMOTE THE INDUSTRIES LOCATED IN THEIR AREA.

10. IBM. IBM OFFICIALS POINT OUT THAT THEIR FRENCH COMPETITOR CII HAS A MUCH LARGER SHARE OF THE PUBLIC MARKET THAN IT DOES IN THE PRIVATE SECTOR. IBM, WHICH NOW DOES 30 PER CENT OF ITS FRENCH BUSINESS WITH THE GOVERNMENT, EXPECTS ITS OWN SHARE OF THE PUBLIC MARKET LIMITED OFFICIAL USE

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TO DROP FURTHER AS CII'S CAPABILITIES GROW, PARTICULARLY AFTER THE HONEYWELL MERGER. IBM HAS NEVER BEEN ABLE TO GET HOLD OF ANY DOCUMENT INSTRUCTING ADMINISTRATIONS TO BUY LOCALLY MADE EQUIPMENT, BUT IS CONVINCED THAT THERE IS AN UNDERSTANDING TO THAT EFFECT.

11. SOMELEC. SOMELEC IS A LARGE IMPORTER OF AVIONICS, TELECOMMUNICATION EQUIPMENT, PROFESSIONAL AND MILITARY ELECTRONICS, AND SELLS 90 PER CENT OF ITS TURNOVER TO THE FRENCH PUBLIC ADMINISTRATION. THE REPRESENTATIVES OF THE COMPANY SAID THAT MOST OF THE PRODUCTS THEY SELL ARE REPLACEMENT PARTS FOR U.S. EQUIPMENT USED IN FRANCE' EQUIPMENT UNAVAILABLE DOMESTICALLY, OR EQUIPMENT OFFERING CONSIDERABLE PRICE ADVANTAGES OVER SIMILAR FRENCH PRODUCTS. THEY DID NOT APPEAR TO FIND GOF PROCUREMENT POLICIES AN INHIBITING FACTOR IN THIS TYPE OF BUSINESS. GAMMON

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